

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

## **ORDER**

Pending before the Court is a Report and Recommendation (“R & R”) of the Magistrate Judge, recommending that Petitioner Robert Ligon’s federal habeas action filed pursuant to 28 U.S.C. § 2255 (Docket Entry No. 1) be dismissed with prejudice. (Docket Entry No. 51). The R & R states in part,

This matter is before the Court following an Evidentiary Hearing held on October 15, 2014. Judge Sharp previously referred this federal habeas action to the undersigned “with instructions to conduct an Evidentiary Hearing to determine whether the petitioner did in fact ask his attorney to file an appeal.” Docket No. 20. Judge Sharp’s Order further provided, “Based upon the Magistrate Judge’s findings, a recommendation shall be made as to the disposition of petitioner’s ineffective assistance claim.” *Id.*

\* \* \*

Based upon the proof adduced at the Evidentiary Hearing, the Court finds as a fact that Petitioner did not ask his attorney to file an appeal. Under those circumstances, Petitioner is not entitled to relief in the form of a delayed appeal.

For the foregoing reasons, the undersigned recommends that the instant Petition be DISMISSED WITH PREJUDICE.

No response in opposition was filed to the R & R. Having thoroughly reviewed the record in this case and the applicable law in accordance with Rule 72(b), the Court will accept the R & R of the Magistrate Judge.

Accordingly, the Court hereby rules as follows:

- (1) The Report and Recommendation (Docket Entry No. 51) is hereby ACCEPTED and APPROVED;
- (2) The motion filed by Petitioner pursuant to 28 U.S.C. § 2255 seeking to vacate, set aside, or correct sentence (Docket Entry No. 1) is hereby DENIED;
- (3) This case is hereby DISMISSED WITH PREJUDICE; and
- (4) A certificate of appealability will not issue as to the claim of ineffective assistance of counsel set forth in the movant's motion. Rule 11(a) Rules Gov'g § 2255 Motions.

Entry of this Order shall constitute the judgment in this action.

**It is SO ORDERED.**

*Kevin H. Sharp*  
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KEVIN H. SHARP  
UNITED STATES DISTRICT JUDGE